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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,243

04/14/2004

Ho Kee Law

50T5479.01

6425

27774 7590 07/01/2010

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EXAMINER

AMADIZ, RODNEY

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

07/01/2010

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HO KEE LAW, SHENG DONG, AMAL PRABHU,
and TOSHIKI KIKUCHI

Appeal 2009-007010
Application 10/824,243¹
Technology Center 2600

Decided: July 1, 2010

Before ROBERT E. NAPPI, MARC S. HOFF,
and CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is SONY Corporation.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 10-16, 18-23, 25, and 26. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention relates to an apparatus for interfacing with a user that includes a joystick and a joy pad, wherein the joystick is positioned in close proximity to the joy pad such that a user can depress both the joystick and the joy pad simultaneously with a single digit. The joystick includes a circular top having a radius that extends almost to the beginning of the joy pad (Abstract).

Claim 10 is exemplary:

10. An apparatus for interfacing with a user comprising:
a first manipulandum to provide a first type of input from the user to a computer program,
wherein the first manipulandum comprises a joystick and wherein said joystick includes a circular top; and
a second manipulandum disposed in close proximity to the first manipulandum to provide a second type of input from the user to the computer program, wherein the second manipulandum comprises a joy pad,
wherein the joy pad includes one or more inputs, and the circular top has a radius that extends almost to a beginning of the one or more inputs of the joy pad, whereby a user can simultaneously move the joy stick and depress one input of the joy pad with a single digit.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Mak	US 2004/0085289 A1	May 6, 2004
Motoki	US 6,752,758 B2	Jun. 22, 2004
Fleck	US 6,977,811 B1	Dec. 20, 2005

Claims 10-16, 18-23, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mak in view of Motoki and Fleck.

Rather than repeat the Appellants' arguments or the Examiner's positions, we make reference to the Appeal Brief (filed July 21, 2008), the Reply Brief (filed October 21, 2008), and the Examiner's Answer (mailed August 21, 2008) for their respective details.

ISSUE

Appellants contend that since Motoki is directed to completely nonanalogous art of an endoscope drive device, there is no motivation to combine the teachings of Motoki and Mak (App. Br. 4-5). Appellants argue further that the Examiner has used impermissible hindsight reasoning since the Examiner's recited motivation to combine relies solely upon the Appellants' very own teachings (App. Br. 5, 8). In addition, Appellants contend that none of the references teaches a joy stick having a circular top that *extends in radius almost to a beginning of the one or more inputs of the joy pad*, whereby the user can move the joy stick and *simultaneously* depress one input of the joy pad with a single digit (App. Br. 6-7). Specifically, Appellants contend that Fleck recites a claim to "a same single fingertip to actuate the mouse button OR one of the directional buttons" not both at the same time (App. Br. 7). Finally, Appellants argue that the Examiner has failed to establish a prima facie case since (i) there is no suggestion or motivation to combine the alleged teachings of Mak, Motoki, and Fleck and (ii) these references fail to teach or suggest all of the claim limitations (App. Br. 8).

Appellants' contentions present us with the following issue:

Does the combination of references disclose a joystick having a circular top disposed in close proximity to a joy pad, wherein the circular top has a radius that extends almost to a beginning of one or more inputs of the joy pad, whereby a user can simultaneously move the joystick and depress one input of the joy pad with a single digit?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Mak

1. Mak discloses a hand-held device having a joystick 310 having a circular top surrounded by directional keys 306a-306b and 308a-308b, wherein navigation is achieved by depressing "directional keys 306a-306b and 308a-308b, or the joystick 310, or both." "[T]he joystick 310 can be used in lieu of, or in addition to the directional key commands." (Fig. 3, ¶ [0038]).

Motoki

2. Motoki discloses an operational remote controller for an endoscope apparatus that integrates a joystick for controlling the bending operation of the bending portion (col. 6, ll. 10-20). The joystick may provide either an analog signal or a digital signal (col. 18, l. 64-col. 19, l. 12). The bending lever of the joystick includes various circular arrangements (Figs. 19A-D).

Fleck

3. Fleck discloses a mouse assembly including a mouse button and a plurality of directional buttons that at least partially surround the mouse button. The directional buttons are arranged in close proximity to the mouse button “to permit a same single fingertip to actuate at least one of the mouse button and one of the directional buttons.” (Fig. 3; col. 2, ll. 5-12).

4. Fleck discloses that the user can easily navigate through a user interface on the display screen of a portable computer using a single fingertip (such as a thumb). The user need only move his thumb slightly in one direction or another, pressing the appropriate directional buttons and/or the mouse button without repositioning his fingertip (col. 3, ll. 10-25; col. 5, ll. 1-25, 35-49). In one embodiment, the buttons may be pressure sensitive such that the “users may tend to press the mouse button 300 and/or directional buttons 302-308 harder when they wish to speed up cursor movement” (col. 6, ll. 1-4).

5. Fleck discloses a claim to a mouse assembly wherein “the directional buttons being arranged in close proximity to the mouse button to permit a same single fingertip to actuate the mouse button or one of the directional buttons” (col. 8, ll. 61-66).

PRINCIPLES OF LAW

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

“The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection. References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art.” *In re Kahn*, 441 F.3d 977, 986-87 (Fed. Cir. 2006).

ANALYSIS

Claims 10-16, 18-23, 25, and 26

We select claim 10 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Representative claim 10 recites the joy pad disposed in close proximity to the joystick, “wherein the joy pad includes one or more inputs, and the circular top has a radius that extends almost to a beginning of one or more inputs of the joy pad, whereby a user can simultaneously move the joy stick and depress one input of the joy pad with a single digit.”²

Appellants’ arguments have not persuaded us of error in the Examiner’s rejection of claim 10. Mak and Motoki relate generally to a joystick disposed in *close proximity* to directional buttons, wherein the analog joystick includes a circular top (FF 1-2, emphasis added). Appellants’ additional argument that Motoki is directed to non-analogous art wherein no motivation to combine these references exist is without merit for two reasons (App. Br. 4, 8). First, we do not agree that Mak and Motoki are

² Independent claims 12 and 18 recite similar claim limitations.

nonanalogous, because one skilled in the art would find that the joystick having a circular top that is disclosed in Motoki is reasonably pertinent to the problem solved by Appellants' invention. *See In re Kahn, supra*.

Second, although Motoki was cited by the Examiner to disclose an analog joystick having *a circular top* (Ans. 6 and 13; FF 2 (emphasis added)), Mak discloses a joystick having a circular top as well (FF 1).

Further, Fleck was cited by the Examiner to show a first manipulandum disposed in close proximity to a second manipulandum such that a user can actuate both manipulandum *simultaneously* using one finger (Ans. 7; FF 3-5 (emphasis added)). We agree with the Examiner's findings.

We conclude that improving Mak (and Motoki) by adding Fleck's feature of being able to actuate both the joystick and the joy pad with one finger or digit simultaneously is a predictable result of combining these prior art elements according to their established functions. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416, 417 (2007).

Accordingly, for the reasons stated above, we sustain the Examiner's rejection of independent claims 10, 12, and 18 and that of dependent claims 11, 13-16, 19-23, 25, and 26 which are grouped with claims independent claims 10, 12, and 18.

CONCLUSION

The combined references disclose a joystick having a circular top disposed in close proximity to a joy pad, wherein the circular top has a radius that extends almost to a beginning of one or more inputs of the joy pad, whereby a user can simultaneously move the joystick and depress one input of the joy pad with a single digit.

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ORDER

The Examiner's rejection of claims 10-16, 18-23, 25, and 26 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ELD

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